

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
Multi-Association Group (MAG) Plan for)	CC Docket No. 00-256
Regulation of Interstate Services of)	
Non-Price Cap Incumbent Local Exchange)	
Carriers and Interexchange Carriers)	
)	

COMMENTS OF GVNW CONSULTING, INC.

GVNW Consulting, Inc. respectfully submits these comments in response to the Commission's Further Notice of Proposed Rulemaking (NPRM) in the above-referenced docket. GVNW Consulting is a management-consulting firm that provides a wide variety of consulting services, including regulatory support on issues such as universal service and access reform for communications carriers in rural America.

The focus of the Commission's *Further Notice* is to expand the record reflected in the Commission's Second Report and Order (FCC 01-304) in this proceeding. This decision (MAG Order) addressed the petition jointly filed on October 20, 2001 by the Multi-Association Group (MAG), comprised of the National Rural Telecom Association (NRTA), National Telephone Cooperative Association (NTCA), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), and the United States Telecom Association (USTA). This MAG petition, the subject of the Second Report and Order, offered an interstate access reform and universal service support proposal applicable to incumbent local exchange carriers subject to rate-of-return regulation that was adopted in part, and rejected with respect to several key provisions.

In the FNPRM, the Commission seeks additional input as it continues to craft evolving solutions to the unique challenges that face the companies that serve high-cost, rural customers.

ANY RURAL CARRIER REGULATORY STRUCTURE SHOULD INCLUDE THE
ABILITY TO CONTINUE TO OPERATE UNDER RATE-OF-RETURN
REGULATION

The decision to permit rural carriers to continue to deploy vital infrastructure under rate-of-return regulation was one of the most important aspects of the MAG Order, due to the wide variety of operating characteristics experienced by the many non-price cap rural carriers. As the Commission itself notes previously, the approximately 1,300 non-price cap carriers serve less than eight percent of nationwide access lines. These 1,300 companies exhibit **significant** variations in both study area size and customer base. The nature and scope of these significant differences within the subset of rural carriers has been placed in the public record by the Rural Task Force (RTF) via its White Paper 2, entitled The Rural Difference, released in January, 2000. The White Paper offered a very detailed analysis of the major rural carrier differences. In brief, the analysis led the RTF to reach nine conclusions with respect to the rural difference issue:

- 1) Rural carriers serve more sparsely populated areas;
- 2) There is significant variation in study area sizes and customer bases among rural carriers;
- 3) The isolation of areas served by rural carriers results in numerous operational challenges;

- 4) Compared to non-rural carriers, the customer base of rural carriers generally includes fewer high-volume users, depriving rural carriers of economies of scale;
- 5) Compared to customers of non-rural carriers, customers of rural carriers tend to have a relatively small local calling scope and make proportionately more toll calls;
- 6) Rural carriers frequently have substantially fewer lines per switch than do non-rural carriers, providing fewer customers over which to spread high fixed network costs;
- 7) Total investment in plant per loop is substantially higher for rural carriers than for non-rural carriers;
- 8) Plant specific and operations expenses for rural carriers tend to be substantially higher than for non-rural carriers;
- 9) Customers served by rural carriers have different demographic characteristics from customers in areas served by non-rural carriers.

The regulatory options available to rural rate-of-return carriers should be structured to reflect these important differences. The rate-of-return regulation that was continued as a part of the decision in the MAG Order is in the public interest, and must continue to be included as a key element of any future rules adopted as a result of this Further Notice.

If the Commission ultimately crafts a workable alternative regulatory option, it must be but one option for the rural carrier. It would need to be an option that could achieve a proper balance between carrier and customer interests, as opposed to a

mandated migration away from the rate-of-return system that will continue to assist in meeting the goal of universal service in many portions of rural America.

THE COMMISSION ITSELF HAS OUTLINED THE POTENTIAL OF UNDESIRABLE RAMIFICATIONS OF A FORCED CONVERSION AWAY FROM RATE OF RETURN REGULATION

In its discussion of the MAG incentive proposal, the Commission expressed concern about whether an incentive regulation environment could work in high-cost rural territories.

One concern expressed was whether there would be adequate investment levels in rural areas under an incentive regulatory scenario. The Commission expressed reservations that alternatively-regulated rural carriers might have an “incentive” to reduce costs by reducing investment and expense levels (e.g., depreciation and maintenance) in order to realize greater profits that could then be retained by the company.

A second area of concern is related to the resulting impact on service quality levels. In paragraph 224, the Commission has posed the question as to whether certain state programs may be relied upon as a means to ensure that adequate service quality is maintained.

While it is unlikely that the Commission will be able to definitively answer several of these questions in the near term, we believe this to be yet one more reason for the continuation of the rate-of-return option for rural carriers.

Incentive-Based Regulation Productivity Factor Issues

In declining to adopt the MAG incentive plan, the Commission stated that it may constitute a useful departure point from which to develop an alternative regulatory plan.

With the wide range of company cost and operating characteristics within the rural carrier subset, we believe that it will be problematic for the Commission to establish any sort of productivity factor that can accurately achieve the same goals as the productivity factor utilized by the much larger price cap companies. If a productivity factor were established, we would anticipate that many carriers would be precluded from choosing such an incentive option.

Historically, large companies have used work force reductions to meet productivity targets. Small companies, whose personnel perform multiple functions, will be unable to reduce their labor force without impacting service quality. If the Commission ultimately decides to adopt some level of productivity factor, we recommend that special consideration be given to the carriers under 50,000 access lines.

Conclusion

Chairman Powell stated in his separate comments that accompanied the MAG Order: “Resolving issues this complex requires tough choices, which cannot continually be put off and which are rarely greeted with unanimous popular acclaim.” An integral part of the MAG decision was the Commission’s recognition of the differences that exist in rural America. In this regard, GVNW agrees with the Commission’s statement in paragraph 224 of the Second Report and Order:

Rate-of-return regulation has worked well in extending service to rural America, along with our universal service program and the work of state commissions to support service in these areas.

If the Commission intends to continue to meet its universal service responsibility as mandated in section 254, then it must continue to allow rural carriers the option of rate-of-return regulation.

Respectfully submitted,

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